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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the seventh annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

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Seventh annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

For the period from 1 July 2001 to 30 June 2002

Part One

Overview

Cases

1. As of the date of the present report, the Tribunal has indicted 80 persons; of whom 60 are in custody and 20 are still at large. Warrants of arrest have been issued for these 20 persons and the cooperation of States is sought to secure their arrest. Of the 60 persons already arrested, 8 have been sentenced, 1 has been acquitted, 22 are involved in ongoing trials and 29 are in custody awaiting the commencement of their trials. The Prosecutor has indicated that she is ready for trial in seven cases, involving 13 of the 29 persons in custody. However, the Trial Chambers are currently fully engaged and will be engaged in the ongoing trials of 22 accused persons until the expiration of the judges' mandate on 23 May 2003 and therefore cannot undertake any new trials either in the seven cases ready for trial or in the cases of the remaining 16 detainees awaiting trial.

Trials

2. During the year under review, the Tribunal has been actively engaged in trials. Nine trials of 22 accused persons are in progress before three Trial Chambers. Each Trial Chamber is conducting three trials contemporaneously in phases of two to six weeks for each trial.

3. This system of conducting multiple trials is onerous for the judges and entails elaborate planning and scheduling in consultation with all parties concerned, including some 60 defence counsel from various countries. Nevertheless, in the light of the large number of accused in custody and the lengthy period of their detention, the judges have been compelled to undertake this course of action in order to: (a) provide expeditious justice to persons awaiting trial; (b) bring as many accused as possible to trial; (c) maximize the use of available resources and courtrooms; and (d) advance the date of completion of the Tribunal's mandate.

4. The nine trials in progress have developed to various stages. Two cases involving three accused have reached completion; deliberation over judgement is in progress in one case and in the other, closing arguments are being heard. In three trials of three accused, the prosecution has closed presentation of its case and the defence case is in progress. In the sixth case of three accused, the prosecution was expected to close its case on 12 July 2002.

5. By the end of 2002, three judgements in respect of four accused are likely to be rendered. It must be observed that while the multi-tracking trial system affords trials for a maximum number of accused, the necessary consequence is that the date of judgement in each of these trials is extended.

6. The proceedings may be perceived to be slow, but the judges have to be thorough and scrupulous in their observance of internationally accepted norms of fair trial, with full respect for the rights of the accused. It is worth noting that the judgements and sentences of the Trial Chambers have been confirmed in all of the six appeals heard thus far. The jurisprudence established by the Tribunal has received significant endorsement from academics, representatives of Member States and organs of civil society, and constitutes a reliable body of precedents for the International Criminal Court.

Pre-trial preparation

7. In addition to the nine trials that are in progress, the Trial Chambers during the period under review have ruled on pre-trial motions and supervised pre-trial preparation in 21 cases involving 29 accused persons. These judicial activities have produced decisions in

over 100 motions, initial appearance hearings, status conferences, pre-trial hearings and scheduling orders. Confirmation hearings were also held in which the judges confirmed 14 new indictments.

Appeals

8. During the period under review, the Appeals Chamber delivered one appeal judgement on the merits, nine interlocutory appeal decisions and 24 other decisions and orders. Two appeals on the merits are under consideration. The Appeals Chamber had intended to hold the appeal hearings during the period under review, but due to several motions being filed, the parties were allowed additional preparatory time. The appeal was scheduled to be heard from 2 to 5 July 2002 in Arusha.

Prosecution

9. During the period under review, the Prosecutor has revised her strategy for conducting investigations and preparation of trials. The Prosecutor has revised her future investigation programme from the originally estimated number of 136 new suspects and will now only conduct investigations against 14 new individuals, together with 10 ongoing investigations. The resulting 24 new indictments, which the Prosecutor intends to submit for confirmation by the end of 2004, will conclude her investigation programme.

10. In addition, the Prosecutor has identified 40 suspects whose prosecution she intends to defer to national jurisdictions for trial. Fifteen of these suspects are in countries that have adopted the principle of universal jurisdiction and could be tried in these countries. The cases of 25 other suspects who did not occupy high positions of responsibility could be transferred to the Rwandan authorities. For this purpose, the Prosecutor is seeking the introduction of a new rule, rule 11 bis, similar to that of the International Tribunal for the former Yugoslavia (ICTY), to facilitate the deferral of cases to Rwanda where indictments have already been confirmed, provided the death penalty is not imposed.

11. The post of Deputy Prosecutor has been vacant for over a year. This is cause for concern, as the absence of such a key official, particularly to take charge of the Office of the Prosecutor in Kigali, must have an adverse impact on the quality and pace of the Prosecutor's preparation of trials. The Prosecutor has been attempting to identify a suitable candidate to fill the vacancy.

Registry

12. The Registrar took office in March 2001 and the Deputy Registrar was appointed in October 2001. The appointment of a Deputy Registrar, who has the responsibility for the Judicial and Legal Services Division of the Registry, has strengthened the Registrar's capacity to provide judicial and administrative support to the Chambers, the prosecution and the defence. The Tribunal, unlike ICTY, has not constituted a Management Council. However, in practice, the President holds regular meetings with the Registrar and the Prosecutor to coordinate management of the Tribunal.

Measures adopted to enhance judicial functions and expedite trials

13. The judges of the Tribunal, together with the judges of ICTY, participated in a judicial seminar in Dublin from 12 to 14 October 2001. The seminar was hosted by Trinity College and the Government of Ireland and was also attended by the Under-Secretary-General for Legal Affairs, the Legal Counsel, Hans Corell. Deliberations covered measures to expedite pre-trial and trial proceedings, exercise of greater judicial control over proceedings, harmonization of jurisprudence, and cooperation between the two Tribunals. All the judges were determined in their resolve to ensure the completion of the mandate of the Tribunals within a reasonable time and took note of Mr. Corell's communication of the concerns of Member States over the escalating budgets of the Tribunals.

14. At the seminar, the Presiding Judge of the ICTR Appeals Chamber presented a reform plan outlining a process to ensure better organization of the work of the Appeals Chambers of both Tribunals. Proposals to improve the organization and administrative practices of the two Appeals Chambers were put forward in the light of the anticipated increase in their workload. Three proposals were submitted towards achieving consistency in the jurisprudence of the Appeals Chambers, namely, a new organizational structure, the establishment of a more frequent system of dissemination of information and the setting up of a common database. General discussion ensued on the nature of appeals and limits to the number of interlocutory appeals, which in the case of the ICTY Appeals Chamber were numerous; the ICTR Appeals Chamber, however, adhered to provisions that restricted

interlocutory appeals to defined categories of jurisdictional issues.

15. The judges have implemented measures for the exercise of greater judicial control over proceedings, details of which are set out in Part Two to the present report. They have held pre-trial and status conferences and regular informal meetings with counsel for both parties to streamline trial proceedings, to determine the number of witnesses to be called to testify and documents to be introduced as exhibits, and to place stipulations on the length of witness testimony. They have ordered non-payment of costs to counsel assigned by the Tribunal, as a way of discouraging frivolous motions and abuses of due process. Motions have been disposed of more expeditiously by assigning motions to single judges instead of a full Chamber; by the consideration of motions on brief with written decisions being rendered at the pre-trial stages of cases, instead of holding court hearings; and by rendering oral decisions on motions filed during trial and thereby limiting the interruption of hearing of testimony. While it is the practice of the Chambers to rule on important judicial matters by written decision, where the exigencies do not permit such commitment of time and resources, the judges have resorted to oral rulings, which foster judicial economy while serving the interests of justice.

16. **Plenary meetings**. A plenary meeting of judges was held on 31 May 2002, during which the progress of trials was reviewed and the Prosecutor's future investigative programme received. The matters discussed will be carried forward to the completion strategy planned for the Tribunal. A second plenary session is scheduled for 5 and 6 July 2002. A number of proposals for amendments of the rules and for new rules have been placed on the agenda for consideration. These include proposals for fair trial, expediting trials and appeals, and facilitating prosecution in national jurisdictions.

17. **Length of trials**. Despite the efforts of the judges and of all support sections, trials continue to be long drawn out and often defy the best-laid plans, for the following reasons:

- Judicial proceedings at the international level are far more complicated than proceedings at the national level;
- The issues that emerge during trial are legally and factually complex;
- The interpretation of trial proceedings into three languages, namely Kinyarwanda, French and English, together with cultural and linguistic nuances and unique characteristics associated with understanding questions in Kinyarwanda, cause trial proceedings to take three times longer than a trial conducted in one language;
- Unforeseen circumstances such as delays in the appearance of witnesses and, in some instances, non-appearance of witnesses, coming from Rwanda;
- The large volume of court documents and delays in the translation and disclosure of these documents;
- Lack of preparedness on the part of the prosecution;
- Additional time required by defence counsel for the preparation and investigation of defence cases, and their various concerns regarding payment of fees, authorization of travel and disbursements, and accommodation of their respective schedules.

Request for the creation of a pool of ad litem judges

18. It must be recalled that in its report,[1] the Expert Group constituted pursuant to General Assembly resolution 53/213 of 18 December 1998 anticipated a heavy workload for the Tribunal and drew attention to the need to make necessary provision to handle that workload. As mentioned above, 29 detainees are currently awaiting trial in the Tribunal's Detention Facility; some have been awaiting commencement of their trials for as long as three years. In order to commence the trials of some of these detainees, the President on 9 July 2001 submitted a proposal[2] to the Security Council for the creation of a pool of ad litem judges for the Tribunal, similar to the solution adopted for ICTY. The proposal aims to increase the Tribunal's judicial activity and proposes an amendment to the Tribunal's Statute to allow for ad litem judges to serve at the Tribunal and to form part of the existing Trial Chambers. A decision on the proposal is still pending.

19. In October 2001, the Vice-President met with various representatives in New York to explain the need for the ad litem judges. On 27 November 2001, the President supported the proposal before the Security Council and addressed the various concerns

raised by the members of the Council.[3] The President put forward a programme of trials involving the immediate utilization of six ad litem judges. It was envisaged that six subsections of Trial Chambers I and III would be composed, to commence trials of 17 of those awaiting trial. Unfortunately, the lack of decision on the ad litem proposal frustrates the Tribunal's plan to complete as many trials as possible during the period of the current mandate.

20. It is imperative that the principle of equality of resources and equal treatment be observed for both Tribunals. The accused are entitled to expeditious trials. The present lengthy period of pre-trial detention is a matter of grave concern and does not bode well for the interests of justice. The question of reliability of testimony, many years after the alleged event, is also a relevant consideration. Under similar circumstances, the Security Council made provision for the creation of a pool of ad litem judges for ICTY, which has since resulted in an increase in the number of trials currently in progress at that Tribunal.

Completion of the mandate of the Tribunal

21. The ad litem proposal represents the only viable solution for the timely completion of the mandate of the Tribunal. It must be stressed that the ad litem proposal was motivated to cater for the current caseload of the Tribunal.

22. The Prosecutor has provided a drastically revised future investigation programme and it is now feasible to make a more realistic prediction of the completion of the mandate of the Tribunal. Based on the recent information provided by the Prosecutor, the Tribunal will be able to complete its mandate by the years 2007-2008, considering that:

(a) The three Trial Chambers are engaged in trials in nine cases involving 22 accused. The Trial Chambers are working to maximum capacity and are not in a position to commence any new trials in the current mandated period;

(b) Twenty-nine accused in 21 cases await commencement of their trials. The Prosecutor is ready to proceed to trial in seven cases involving 13 accused persons. However, as stated above, Trial Chambers are not available at present, nor will they become available for another year;

(c) The Prosecutor has indicated that she has 10 ongoing investigations and plans to investigate a further 14 new cases. She expects to have investigations in these 24 cases completed by the years 2003-2004.

23. In light of the above, a definitive programme leading to the completion of the Tribunal's work can be devised as follows:

- A pool of 18 ad litem judges together with the requisite support resources is made available;
- Each of the three Trial Chambers will be divided into sections. Each section will, as far as possible, comprise a permanent judge and two ad litem judges;
- At the rate of three to four cases per Trial Chamber section, at the established pace of the trials and with the full complement of nine Trial Chamber sections and 27 judges, the outstanding 21 cases and anticipated 24 new cases can be completed by the years 2007-2008.

Part Two

24. The present report reviews the main activities of the Chambers, the Office of the Prosecutor, the Registry and the Administration as well as the cooperation received from States and various institutions.

Office of the President

25. The President of the Tribunal is Judge Navanethem Pillay (South Africa) and the Vice-President is Judge Erik Møse (Norway).

I. The Chambers

26. The Chambers are composed of 16 independent judges, with 3 judges serving in each of the three Trial Chambers, and 7 judges serving in the Appeals Chamber.[4] The Appeals Chamber comprises five of its seven members when it sits on appeal or review. The terms of office of 11 judges expire on 23 May 2003.

27. The Chambers are comprised as follows:

- Trial Chamber I: Judge Navanethem Pillay (South Africa), presiding, Judge Erik Møse (Norway) and Judge Andrésia Vaz (Senegal);
- Trial Chamber II: Judge William Hussein Sekule (United Republic of Tanzania), presiding, Judge Winston Churchill Matanzima Maqutu (Lesotho) and Judge Arlette Ramaroson (Madagascar);
- Trial Chamber III: Judge Lloyd George Williams QC (Saint Kitts and Nevis), presiding, Judge Pavel Dolenc (Slovenia) and Judge Yakov Arkadievich Ostrovsky (Russian Federation);
- The Appeals Chamber: Judge Claude Jorda (France), presiding, Judge Mohamed Shahabuddeen (Guyana), Judge Fausto Pocar (Italy), Judge Mehmet Güney (Turkey), Judge Asoka de Zoysa Gunawardana (Sri Lanka), Judge David Hunt (Australia) and Judge Theodore Meron (United States of America).

A. Judicial activities of the Chambers

Trial Chamber I

28. During the period under review, Trial Chamber I conducted proceedings in 13 cases, involving 19 accused. Three trials were conducted on a multi-track basis. Court sessions were held for a period of 60 days in the *Media* case, 59 days in the *Ntakirutimana* case and 6 days in the *Niyitegeka* case. Trial Chamber I confirmed five new indictments, issued six warrants of arrest and conducted the initial appearances for seven accused persons.

The Prosecutor v. Jean-Bosco Barayagwiza (ICTR-97-19-T), Ferdinand Nahimana (ICTR-96-11-T) and Hassan Ngeze (ICTR-97-27-T), referred to as the "Media" case

29. The trial commenced on 1 October 2000.[5] Judge Gunawardana was assigned to the Appeals Chamber on 1 June 2001 and his appeal work commitments are being accommodated when scheduling trial proceedings in this case. Jean-Bosco Barayagwiza has continued to absent himself from the trial proceedings, but the Trial Chamber has ensured that he is represented by court-appointed counsel. During the period under review, the trial proceeded in phases from 20 August to 6 December 2001, 18 February to 28 March 2002 and 13 May to 31 May 2002 and will continue in July 2002. Forty-five prosecution witnesses comprising 40 factual witnesses, two investigators and three expert witnesses have already testified before the Chamber. This is a lengthy trial involving thousands of pages of documents, books, journals and audio and videotapes, and a trial record of 29,900 pages in French and 26,500 in English.

30. As a way of expediting proceedings, the Trial Chamber held trial hearings on Fridays and thus held seven additional days of court sessions. Fridays are often set aside for judges to consider motions and participate in deliberations. Furthermore, the Trial Chamber rendered 10 written decisions on brief, instead of holding hearings on these motions. This resulted in a saving of court time, a reduction in counsel costs and prevented the interruption of trial. The Trial Chamber also rendered 19 oral decisions on motions. A witness referred to as "X" could not travel to Arusha to testify for security reasons and his testimony was taken via video link from The Hague. This first attempt at taking testimony via video-satellite link presented major technical challenges. However, with equipment donated by United Nations Headquarters and remarkable teamwork by technicians, interpreters and court management services from both Tribunals, the exercise was successfully completed.

31. The Trial Chamber exercised judicial control over the proceedings by streamlining the number of witnesses and by placing time limits on the examination of witnesses, and issued directives and scheduling orders on the presentation of evidence. By way of example, the testimony of Witness X was expected to take three weeks, but was completed in six days.

The Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana (ICTR-96-10-T and ICTR-96-17-T)

32. This trial, which was twin-tracked with the "*Media*" trial, commenced on 18 September 2001.[6] The prosecution closed its case on 2 November 2001, after 27 trial days, during which 19 witnesses were heard. The trial was scheduled to continue with the case for the defence on 14 January 2002. However, due to the sudden serious illness of counsel for Gérard Ntakirutimana, resulting in his replacement in December 2001, it was not possible to commence hearing the defence evidence until 4 February 2002. The first phase of the defence case ended on 15 February 2002 and the second phase lasted from 10 April to 10 May 2002. In total, 24 defence witnesses,

including the two accused, were heard in the course of 30 trial days. A total of 149 prosecution and defence exhibits were admitted. The parties were to present their closing arguments on 15 and 16 July 2002.

33. The Trial Chamber rendered five written decisions and seven oral decisions on motions. This relatively low number of motions is attributable in part to weekly informal conferences at which issues of concern to the parties were resolved. Efficiency was also improved by the piloting of simultaneous interpretation between Kinyarwanda and the official languages of the Tribunal.

The Prosecutor v. Eliezer Niyitigeka (ICTR-96-14-T)

34. The preparation of this case for trial was overseen by Trial Chamber II. The President thereafter assigned the case to Trial Chamber I.[7] Trial commenced on 17 June 2002 and should have continued until 28 June 2002. Sixteen prosecution witnesses were scheduled to testify during the period; however, only 2 of the witnesses appeared before the Chamber. The Chamber was informed that the Witness and Victims Support Section-Prosecution had experienced difficulties in bringing the remaining witnesses from Rwanda. By decision of 24 June 2002, the Trial Chamber adjourned the trial to 13 August 2002 and drew the attention of Rwanda to its obligations to cooperate with the Tribunal.

Pre-trial proceedings

35. Apart from the ongoing trials, Trial Chamber I undertook pre-trial preparation in seven assigned cases. The judges also confirmed indictments, issued warrants of arrest, granted other related orders and conducted initial appearances of accused brought before the Tribunal.

Trial Chamber II

36. During the period under review, Trial Chamber II conducted proceedings in eight cases, involving 20 accused; 17 of the accused persons are detained in the Tribunal Detention Facility and 3 are still at large. The Chamber conducted hearings in three trials that are in progress, involving eight accused persons. The Chamber rendered 53 written decisions, of which 25 were issued in the *Butare* case, 8 in the *Kajelijeli* case, 4 in the *Kamuhanda* case and the remaining decisions in the other cases before the Trial Chamber, which are still at their pre-trial stage. Fifty-nine oral decisions were rendered in the three trials currently in progress.

The Prosecutor v. Juvénal Kajelijeli (ICTR-98-44-T), referred to as the "Kajelijeli" case

37. Following the death of Presiding Judge Laity Kama on 6 May 2001 and the assignment of Judge Mehmet Güney to the Appeals Chamber, the Trial Chamber was reconstituted by the President to include newly elected Judges Winston C. M. Maqutu and Arlette Ramaroson. The trial of Juvénal Kajelijeli commenced de novo on 4 July 2001. For the period under review, this trial was conducted in two phases, from 4 to 25 July and from 26 November to 13 December 2001. The third phase of the trial was scheduled for 3 April to 3 May 2002. However, that phase could not proceed as scheduled because of the unavailability of two witnesses and also because the prosecution had been unable to conduct investigations relating to the defence of alibi and call rebuttal witnesses, due to the eruption of a volcano in Goma in the Democratic Republic of the Congo, which borders Gisenyi Prefecture in Rwanda. Consequently, the prosecution concluded its case on 10 April 2002 after 15 witnesses had testified, and indicated its intention to call rebuttal witnesses after the conclusion of the defence case. The defence will commence presentation of its case on 16 September 2002. The trials in the *Kamuhanda and Butare* cases have been scheduled to be heard between May and September 2002.

38. During the course of the trial, the Chamber has delivered 24 oral decisions on matters such as the adjournment of the commencement of the trial, the filing of a notice of a defence of alibi, objections to testimony relating to alleged acts pre-dating 1994, disclosure of prior statements of detained witnesses, the waiver of the accused's right to be present at his trial and exclusion of evidence.

The Prosecutor v. Jean-de-Dieu Kamuhanda (ICTR-99-54-T), referred to as the "Kamuhanda" case

39. The trial in the Kamuhanda case commenced de novo on 3 September 2001, as a consequence of Judge Kama's death and for reasons similar to those of the *Kajelijeli* case. The trial was conducted from 3 September to 25 September 2001, 28 January to 13 February 2002 and 6 to 16 May 2002. The prosecution

closed its case following the testimony of 28 witnesses. The trial was scheduled to resume on 19 August 2002 for a four-week session, when the defence will present its case.

40. During the course of the trial, the Chamber rendered 14 oral decisions on substantive and procedural matters. The substantive matters included the recall of witnesses and conduct by parties that may amount to contempt of court.

The Prosecutor v. Joseph Kanyabashi (ICTR-96-15-T); Pauline Nyiramasuhuko and Arsène shalom Ntahobali (ICTR-97-21-T); Sylvain Nsabimana and Alphonse Nteziryayo (ICTR-29-T); and Elie Ndayambaje (ICTR-96-8-T), referred to as the "Butare" case

41. The trial of these six accused commenced on 12 June 2001. The first three phases of the trial were conducted from 12 to 27 June 2001, 22 October to 22 November 2001 and 4 March to 4 April 2002. The fourth phase of the trial commenced on 20 May 2002 and was scheduled to proceed until 11 July 2002. Eleven witnesses were to testify; however, only four witnesses appeared and completed their testimony. The Trial Chamber was informed that the Witness and Victims Support Section-Prosecution had experienced difficulties in bringing the remaining witnesses from Rwanda. By oral decision of 19 June 2002, the Trial Chamber adjourned the trial and underscored Rwanda's obligation, under the Statute and Rules of the Tribunal, to cooperate with the Tribunal.

42. The *Butare* case is the largest of the joint trials conducted by the Tribunal thus far. Experience has shown that the presentation of evidence and the examination of witnesses in a joint trial take much longer than in a trial of a single accused. Each of the six jointly indicted accused has the right to cross-examine every witness who has implicated him or her on any count in the indictment. Accordingly, where two or more accused are implicated by a witness, the cross-examination of that witness may be lengthy. In the interests of judicial economy, the Chamber has rendered 21 oral decisions relating to matters such as length of cross-examination, disclosure of witness statements, disclosure and inspection of exhibits, contempt, adjournment of the proceedings and waiver of the right of the accused to be present at trial.

Pre-trial proceedings

43. Apart from the ongoing trials, Trial Chamber II undertook pre-trial preparation in seven assigned cases. The judges have confirmed indictments, issued warrants of arrest and granted other related orders, and conducted initial appearances of accused brought before the Tribunal.

Trial Chamber III

44. For the period under review, Trial Chamber III has been engaged in three trials and has rendered 122 decisions on pre-trial and trial motions, and oral applications. In addition, the judges confirmed indictments and held initial appearances in 13 other cases. The Chamber has thus disposed of 135 motions and other matters of which it has been seized. This represents a 30 per cent increase in the number of matters handled, as compared to the previous reporting period. Ninety-one motions, that is, 67 per cent of the motions that have been filed, were disposed of by oral rather than written rulings. As is evident from the aforementioned figures, the Chamber continues to reap dividends in efficiency and productivity by disposing of matters by oral rulings.

The Prosecutor v. Laurent Semanza (ICTR-97-2-T), referred to as the "Semanza" case[8]

45. The prosecution closed its case in April 2001, after having called 24 witnesses, consisting of two experts, two investigators, and 20 factual witnesses. These witnesses have testified over the course of 29 trial days. The defence commenced presentation of its case on 16 October 2001. Twenty-seven witnesses, including the accused, testified for the defence over the period of 44 days. The defence closed its case on 28 February 2002. The Chamber made every effort to expedite the conduct of the defence case with due regard to the rights of the accused and was able to reduce the number of defence witnesses from 38 to 27.

46. During the period under review, the Chamber rendered 67 decisions, consisting of 13 written decisions and 54 oral decisions in this case. Forty-six decisions were rendered on motions from the defence and 21 decisions on motions from the Prosecutor.

47. In attempts to economize on judicial time and the resources of the Tribunal, the Chamber also granted, in part, a defence motion for judicial notice and

presumption of facts, as previously granted for the prosecution. As a result, the Chamber saved a great deal of time which would have been devoted to adducing evidence intended to prove facts of common knowledge or facts already adjudicated in previous judgements.

48. The Chamber expected to hear the closing arguments after the close of the defence case, and thereafter retire to deliberate over the judgement. However, the defence raised a special defence of alibi, without having given prior notice to the prosecution of its intention to rely on such a defence. Rule 67 of the Rules requires notice of alibi to be given, but does not empower the Chamber to exclude evidence in support of a special defence where there has been no such prior notice, and therefore the Chamber permitted the defence to lead evidence in support of alibi. Thereafter, the Chamber was constrained to grant the prosecution's motion for leave to call two witnesses in rebuttal. However, in granting this motion, the Chamber took special care to confine witnesses' testimonies solely to the defence of alibi. The defence then applied to call further witnesses as a "rejoinder" to the prosecution's rebuttal witnesses. This was denied. The Chamber heard the parties' closing arguments on 17 and 18 June 2002 and is now in the process of deliberation over the judgement.

The Prosecutor v. André Ntagerura, Emmanuel Bagambiki and Samuel Imanishimwe (ICTR-99-46-T), referred to as the "Cyangugu" case[9]

49. The prosecution closed its case on 21 November 2001 after having called 40 witnesses, including one expert and two investigators, over the course of 73 trial days. The Chamber granted several motions permitting the prosecution to drop 18 witnesses from its original list of trial witnesses, thereby shortening the proceedings.

50. During the period under review, the Chamber rendered 37 decisions in this case, 8 of which were written decisions and 29 oral decisions. Thirteen of these decisions were rendered on applications made by the Prosecutor, 20 decisions were rendered on applications made by the defence, 1 decision was rendered on a motion by a non-governmental organization, representing women who requested leave to appear before the Chamber as amicus curiae, and three decisions were rendered by the Chamber, acting *proprio motu*, in pursuit of facilitating the conduct of the trial proceedings and fostering the interests of justice.

51. The defence commenced presentation of its case on 6 March 2002. Eighteen witnesses testified on behalf of accused Ntagerura over the course of 15 trial days. From the pre-trial briefs filed by the three defence counsel, the Chamber observed that the defence intended to call 46 witnesses for Ntagerura, 42 witnesses for Bagambiki and 26 witnesses for Imanishimwe. After careful assessment of the anticipated testimonies of witnesses, the Chamber directed the defence to reduce the number of witnesses. Nine witnesses have been dropped from Ntagerura's list and more witnesses will be removed from the trial witness list. Given the current pace of the presentation of the defence case, the Chamber anticipates that the three defence teams will complete the presentation of their respective cases by the end of 2002.

The Prosecutor v. Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva (ICTR-98-41-T), referred to as the "Military" case[10]

52. The trial in this case commenced on 2 April 2002. As indicated in the previous annual report,[11] the Chamber made all efforts to pave the way for a smooth running of this important and longstanding case, including the disposition of numerous and complex motions filed by the parties, particularly by the defence. During the period under review, the Chamber rendered 15 decisions, 8 of which were rendered orally. Eight decisions pertained to issues raised by the defence and seven to issues raised by the Prosecutor.

53. The Chamber also recorded the reasons for the delay in commencing this trial, namely, the motions filed by the defence and the interlocutory appeals against the Chamber's decisions. The Chamber was furthermore engaged in two other trials and had elected not to conduct the trial in the *Military* case in tandem with those trials. Commencing a third trial would have imposed an unreasonable burden on the Chamber's work schedule, without any guarantee of substantial progress in any of the three cases. To dedicate its undivided attention to this case, the Chamber needed to wait until at least one of the ongoing trials, namely *Semanza*, was concluded.

54. There were other obstacles in the way of the commencement of the trial, such as the filing by the

defence of a multiplicity of complex motions, some on the eve of the commencement of the trial, the accused's refusal to appear in court, and lack of preparedness on the part of the prosecution to commence the trial. The Chamber was able to open the formal trial proceedings by permitting the prosecution to make its opening statement.

55. Taking special care to fulfil the rights of the defence for disclosure of certain documents in French, the language of the accused, the Chamber adjourned the trial to September 2002 and scheduled a status conference for 28 June 2002. The adjournment would enable the parties to hold informal discussions to resolve all pending disclosure and other issues, considering that the defence had not received translations of certain disclosed materials in sufficient time to enable them to prepare for trial. The Chamber notes that it is imperative that the Tribunal increase the staff of the Language and Conferences Services Section.

Pre-trial proceedings

56. Apart from the ongoing trials in which they are involved, the judges have adjudicated pre-trial motions in other cases assigned to the Chamber. Four decisions have been rendered on pre-trial motions, nine indictments have been confirmed and related orders have been issued, and five initial appearance proceedings have been held.

B. The Appeals Chamber

57. During the period under review, the Appeals Chamber has delivered one judgement and rendered 16 interlocutory appeals decisions. Two new appeals have been filed in the *Rutaganda* and *Bagilishema* cases.

Appeals on the merits

Alfred Musema v. The Prosecutor (ICTR-96-13-A)

58. The Appeals Chamber issued directives, scheduling orders, requests for responses, and decisions on motions relating to the filing of witness statements by the Appellant and the hearing of oral testimony from witnesses. The Appeals Chamber heard the testimony of two new witnesses at The Hague on 17 October 2001 and held hearings on the merits of the appeal in Arusha on 28 and 29 May 2001. In its judgement delivered on 16 November 2001, the Appeals Chamber confirmed the conviction on all but one count and confirmed the sentence of life imprisonment imposed by the Trial Chamber. The Appeals Chamber acquitted Musema of rape as a crime against humanity after considering that the Trial Chamber might have come to a different conclusion had the evidence of the two witnesses heard by the Appeals Chamber been available at trial, and that allowing the conviction of rape might constitute a miscarriage of justice.

Georges Anderson Rutaganda v. The Prosecutor (ICTR-96-3-A)

59. The defence filed a notice of appeal against the judgement and sentence on 5 January 2001 and the Prosecutor filed an appeal against the dismissed counts on 6 January 2001. Six interlocutory orders were issued. The appeal hearing was initially scheduled for hearing in Arusha on 27 May 2002, but at the request of the defence counsel was rescheduled for 4 and 5 July 2002.

Ignace Bagilishema v. The Prosecutor (ICTR-95-1A-A)

60. The Prosecutor appealed against the acquittal of Bagilishema on 9 July 2001. Eight decisions and two orders were rendered on motions filed by both parties. The appeal was scheduled for hearing in Arusha on 2 July 2002.

Interlocutory appeals

Juvénal Kajelijeli v. The Prosecutor (ICTR-98-44-A)

61. The Appeals Chamber rendered three decisions and two orders relating to the jurisdiction of the Tribunal, the composition of the Appeals Chamber and procedural decisions of the Trial Chamber.

Ferdinand Nahimana v. The Prosecutor (ICTR-96-11-A)

62. On 1 February 2002, the Appeals Chamber dismissed the appeal against the decision of the Trial Chamber on witness protection and ruled that there had been no intimidation of witnesses by the Prosecutor in contravention of rule 77 (c).

Jean Bosco Barayagwiza v. The Prosecutor (ICTR-99-52-A)

63. On 13 September 2001, Barayagwiza filed an "*Appel interlocutoire — acte d'appel contre l'ordonnance du 27 août 2001 de la Chambre I du TPIR au sujet de la requête urgente de mise en liberté de M. J. B. Barayagwiza*". The Appeals Chamber rendered a decision on 1 February 2002 dismissing the appeal and noted that the Appellant had failed to follow the appropriate procedure to have the Rules amended or to bring a motion under rule 65 as advised by the Trial Chamber. In addition, the Appellant had prayed that the Appeals Chamber seize the "Legislator" of the Tribunal for the purpose of determining what constituted a reasonable period of detention on remand, without challenging the impugned decision in relation to the question of provisional release. The Chamber held that the matters raised by the Appellant were not subject to interlocutory appeal. Consequently, the Appeals Chamber dismissed the appeal and directed the Registrar to withhold payment of counsel's fees, considering that the appeal was frivolous and constituted an abuse of process.

Joseph Nzirorera v. The Prosecutor (ICTR-98-44-A)

64. In its decision of 1 February 2002, the Appeals Chamber dismissed the interlocutory appeal by the Appellant against the Trial Chamber's decision of 3 October 2001, denying his motion for withdrawal of his assigned counsel, and held that the Rules did not provide for a right of interlocutory appeal on issues of assignment of counsel. The Appeals Chamber stated that it would be for the Registrar to enquire whether there had been a breakdown in communication between the Appellant and his counsel and to take any appropriate action.

Laurent Semanza v. The Prosecutor (ICTR-97-20-A)

65. The Appellant appealed against the Trial Chamber's rejection of his request to call an expert witness. The Appellant also filed an appeal against the Trial Chamber's refusal to review its decision. In dismissing the appeal, the Appeals Chamber ruled that there was no right of review of the Trial Chamber's earlier decision and that the appeal had not raised any of the grounds on which an interlocutory appeal might be filed.

Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva v. The Prosecutor (ICTR-98-41-A)

66. The four Appellants filed interlocutory appeals against the Trial Chamber's decision of "Refusal to reconsider decisions relating to protective measures and application for declaration of lack of jurisdiction". The Appeals Chamber accordingly held, in its decision of 2 May 2002, that the Appellants had no right of appeal pursuant to rule 72 of the Rules, but were entitled to challenge the interlocutory decisions in an appeal against the final judgement.

Requests for review

67. A request for review was filed in the Bagilishema appeal, which was referred by the Appeals Chamber to the Pre-Hearing Judge for reconsideration of the Pre-Hearing Judge's decisions of 30 November and 19 December 2001.

Regulatory activities of the Appeals Chamber

68. The Presiding Judge of the Appeals Chamber presented a reform plan to the judges of both Tribunals at their meeting in Dublin in October 2001 (see paras. 13 and 14 above). This reform plan outlines the process that would ensure better organization of the work of the Appeals Chamber of both Tribunals. Consequently, there are ongoing discussions for cooperation between the Tribunal and ICTY for restructuring the Appeals Unit. During the period under review, the Appeals Chamber of both Tribunals was increased from five to seven with the assignment from the Tribunal of Judges Mehmet Güney and Asoka de Zoysa Gunawardana, who assumed office in The Hague on June 2001 and September 2001, respectively.

69. In August 2001, the Presiding Judge of the Appeals Chamber, in consultation with the President of the Tribunal, issued a Practice Direction to streamline the procedure for filing written submissions. The regulation of the size and format of the pleadings filed before the Appeals Chamber, pursuant to rule 107 bis, has thereafter led to a reduction in the number of interlocutory appeals filed during the current period.

II. Office of the Prosecutor

70. During the period under review, the Prosecutor, Carla Del Ponte, has continued to implement and refine

her strategy for investigating new cases, preparing cases for trial and conducting trials. Having reorganized the structuring and monitoring of investigations undertaken over the past two years, the Prosecutor has now turned her attention to improving the quality of the presentation of the prosecution cases at trial. New systems have been put in place for the management of case files and senior trial attorneys have been assigned to supervise and conduct investigations.

71. The Prosecutor endeavoured to limit the effects of significant staffing changes made during the period under review on office staff and activities. She made every effort to identify a Deputy Prosecutor, in conjunction with many high-ranking persons. The Prosecutor remains very concerned by the need to recruit an excellent candidate for this key post.

72. The Prosecutor continues to stress the importance of informing the Rwandan people, especially the victims of crimes over which the Tribunal has jurisdiction, of the work of the Tribunal. The Prosecutor hopes that certain court hearings will be held in Rwanda, so that justice may be rendered as close as possible to those concerned. She is supportive of the victims and survivors playing a greater part in proceedings before the Tribunal and hopes that the Tribunal might have a freer hand in compensating survivors and victims.

73. The Office of the Prosecutor has also strengthened its cooperation with the authorities of other countries, including Rwanda's neighbours, in the conduct of investigations and the prosecution of offences committed in Rwanda. The Prosecutor recalls the excellent cooperation given by many States in seeking and arresting suspects, including Belgium and the United States of America. Negotiations are under way with the Belgian authorities for the opening of an extension of the Office of the Prosecutor in Brussels. An American programme of reward for information leading to the location and arrest of alleged high-ranking suspects became operational in June 2002.

Investigations

74. The Prosecutor has revised projected investigation activities for the next two years, with the aim of fulfilling the mandate of the Tribunal. According to these projections, there would be a maximum of 14 new accused. By the end of 2004, the Investigations Division should have fulfilled its task and the Trial Chambers will be seized of all indictments preferred by the Office of the Prosecutor. The rate of arrests and the joinder of accused are factors that will influence the actual number of new trials.

75. During the period under review, the activities of the investigative teams extended to States in North America, Western Europe, West and Central Africa, as well as to States in East and southern Africa. More than 800 potential witnesses have been interviewed and 625 witness statements obtained. The Prosecutor focuses particular attention on investigations of rape and sexual assault. The team in charge of sexual assault has been decentralized, but a central core of investigators continues to ensure the coordination and the supervision of operations in this very sensitive and complex domain.

76. A special team is in charge of tracking suspects who are still at large. The tracking team has been divided into two sub-teams on geographical lines, one covering Europe and North America, the other covering Africa. During the period under review, the tracking team was placed under the direct supervision of the Prosecutor and the Chief of Investigations. Numerous "wanted" notices for the arrest of suspects at large were widely disseminated through Interpol. A computerized system for the management and assessment of sources and informers was created. The team's time in the field has been doubled through a new mission planning system. In addition, a rigorous budgetary control system has been put in place.

77. During the period under review, 11 accused persons were arrested: Simon Bikindi, the author and musician, arrested in the Netherlands; Emmanuel Ndindabahizi, former Minister of Finance of Rwanda, arrested in Belgium; Emmanuel Rukundo, military chaplain, arrested in Switzerland; Protais Zigiranyirazo, businessman and ex-*préfet* of Ruhengeri, arrested in Belgium; François Karera, ex-*préfet* of Kigali, arrested in Kenya; Colonel Aloys Simba, arrested in Senegal; Paul Bizengimana, ex-*bourgmestre* of Gikoro, arrested in Mali; Joseph Nzabirinda, youth monitor in Ngoma Commune, arrested in Belgium; Abbé Athanase Seromba, transferred from Italy; Vincent Rutaganira, ex-*Conseiller* in Mubuka, arrested in the United Republic of Tanzania; and Abbé Hormisdas Nsengimana, ex-

principal of Nyanza High School, arrested in Cameroon.

78. During the period under review, the Prosecutions Division submitted 14 new indictments for confirmation, all of which were confirmed. Warrants of arrest were then issued, which in most cases led to the rapid arrest and transfer of indictees.

79. The Prosecutor has also devoted particular attention to the organization of an evidence database, which is essential for the preparation and presentation of cases. Systems for the storage, filing, indexing and retrieval of items of evidence have been improved. The evidence database has been centralized in Arusha, in secure premises. A special project was implemented with the assistance of the ICTY Evidence Unit to perform a complete audit of the evidence database and of the various standard operating procedures governing the processing and retrieval of documentary and other items of evidence.

80. During the period under review, the Office of the Prosecutor lodged an appeal against the judgement of acquittal in the *Bagilishema* case. The Prosecutor seeks to obtain clarification on several legal questions, including command responsibility for crimes committed by subordinates.

III. The Registry

A. Office of the Registrar

81. In February 2002, the Registrar, Adama Dieng, undertook missions to the Democratic Republic of the Congo and the Republic of the Congo for the purpose of securing the arrest and surrender of high-ranking suspects and accused believed to be taking refuge in the two countries. The relevance of the judicial work of the Tribunal to the establishment of peace in the Great Lakes region was underscored in discussions with the heads of State and the mission in general.

82. The Registrar engaged in several activities to improve the visibility of the Tribunal and support for its work. These activities included meetings with and briefings of senior representatives of diplomatic missions. A particular effort is under way to ensure that the work of the Tribunal is accurately represented in the media. Furthermore, the Registrar has launched an initiative aimed at establishing and strengthening institutional cooperation between the Tribunal and African countries. As part of this initiative, the Registrar undertook a mission to Addis Ababa and addressed the ambassadors of African countries accredited to the Organization of African Unity in May 2002.

83. By letter of 10 May 2002, the Democratic Republic of the Congo proposed that the Tribunal establish an "antenna" office in Kinshasa. It was the view of the authorities of the country that such an office would facilitate the Tribunal's investigations of suspects and accused persons believed to be in its territory. The Registrar welcomed the proposal and discussions will be held with the authorities of the country to explore, in a preliminary manner, the conditions for the materialization of this proposal.

84. The Tribunal continued to receive a high number of visits by delegations and individuals from Governments, other intergovernmental organizations, NGOs and academic institutions. As of 30 April 2002, 71 delegations, comprising 915 persons, had visited the Tribunal, clearly illustrating the growing interest in its work.

85. The experience and accomplishments of the Tribunal have served as a useful model for the Special Court for Sierra Leone. In this context, the Tribunal participated actively in the planning mission established by the Secretary-General to facilitate the practical establishment of the Special Court. As most of the operational issues in the establishment of the Special Court are those that fall under the responsibilities of the Tribunal's Registry, the Registry continues to provide necessary assistance to the establishment of the Special Court. Similarly, the Tribunal's expertise and experience has been made available to the process of the establishment of the permanent International Criminal Court at the request of a number of States and NGOs actively involved in the establishment of the Court.

86. The Tribunal's operations regarding the contact and travel of witnesses from various countries have remained efficient. A number of witnesses were provided with special travel documents from the host Governments, which were easily arranged. However, during the period under review, the Tribunal experienced problems over the flow of witnesses from Rwanda. The call for non-cooperation with the Tribunal by some Rwandan survivors' groups resulted

in a number of witnesses refusing to testify. In two cases where this problem arose, the Trial Chambers ordered that the witnesses be removed from the witness list and the trial proceeded without their testimony.

87. Relations between the Tribunal and the Government of Rwanda have remained positive. However, in June 2002, the Witness and Victims Support Section-Prosecution encountered serious difficulties over the travel of witnesses from Rwanda after the Rwandan Authorities apparently changed the requirements for the issue of travel documents, these requirements not having been made known to the Tribunal in advance. Witnesses were now required to personally obtain three clearance certificates from various local offices. The latter were often unknown or inaccessible and witnesses could not obtain the documents. They also faced risks of exposing their identities, which are protected by witness protection orders issued by Trial Chambers. This prevented the Tribunal from bringing witnesses out of Rwanda and as a consequence two trials ground to a standstill, resulting in valuable court days being lost and wasted costs incurred. The Registrar took immediate steps to seek restoration of cooperation with the Rwandan authorities. He served the two Trial Chamber decisions addressed to the Government and held discussions with the Head of State and other authorities.

Press and Public Affairs Unit

88. The Tribunal continues to pay special attention to providing information to the Rwandan public, in particular through its Outreach Programme to Rwanda. The Tribunal's Information Centre in Kigali, named *Umusanzu mu Bwiyunge* ("contribution to reconciliation" in Kinyarwanda), receives approximately 100 visitors per day, including students, journalists, civil servants, judges and lawyers, as well as ordinary citizens from all walks of life. In 2001, over 21,000 people visited the centre. A plan to increase the impact of the Tribunal in Rwanda through regular radio broadcasts on the Tribunal's work is under way. In the meantime, the Tribunal continues to facilitate coverage of its work by bringing Rwandan journalists to Arusha to cover its proceedings.

Gender issues and assistance to victims

89. Following the advice of the Office of Legal Affairs in New York, the Support Programme for Witnesses, directed by the Tribunal's Gender Issues and Assistance to Victims Unit and implemented [illegible] non-governmental organizations active in Rwanda, [illegible] been refined. The programme will now provide le[illegible] psychological and medical assistance to witnes[illegible] testifying before the Tribunal.

90. During the period under review, the Presid[illegible] submitted a proposal to the Secretary-General on [illegible] issue of compensation for victims of the events [illegible] occurred in Rwanda in 1994, over which the Tribu[illegible] has jurisdiction. The Tribunal agrees with the princi[illegible] of compensation for victims, but believes that [illegible] responsibility for processing and assessing claims [illegible] compensation should lie not with it, but with o[illegible] agencies within the United Nations system. [illegible] President's proposal considered various alternative[illegible] this regard.

91. Many victims look to the Tribunal [illegible] compensation and other forms of restitution apart f[illegible] the prosecution of alleged perpetrators. The Tribu[illegible] has made it clear that, under the terms of its Statut[illegible] cannot meet this expectation and that the subject[illegible] compensation to victims can be more appropria[illegible] addressed by the international community in gen[illegible] and by the Security Council in particular. A meetin[illegible] United Nations agencies, representatives of do[illegible] Governments and NGOs on this subject was hel[illegible] Kigali on 1 March 2002 at the initiative of [illegible] Registrar and the country representative of the Un[illegible] Nations Development Programme in Rwa[illegible] Representatives at the meeting decided to produc[illegible] first assessment of victims' needs, to be submitte[illegible] the Secretary-General by the Registrar and brough[illegible] the attention of international donors.

Compensation for persons wrongfully prosecuted or convicted by the Tribunal

92. The President submitted a proposal to [illegible] Secretary-General for the amendment of the Tribu[illegible] Statute to provide for the compensation of per[illegible] wrongfully prosecuted or convicted by the Tribu[illegible] with the request that the proposal be transmitted to [illegible] Security Council for consideration.

B. Judicial and Legal Services Division

Enforcement of sentences

93. On 23 November and 3 December 2001, [illegible] President designated Mali for the purposes of enfo[illegible]

the sentences of six convicted prisoners. The prisoners are Jean Kambanda, former Prime Minister in the Interim Government in Rwanda in 1994, who was sentenced to life imprisonment; Jean-Paul Akayesu, a former mayor of Taba, who was sentenced to life imprisonment; Clement Kayishema, former Governor of the Kibuye region who was sentenced to life imprisonment; former businessman Obed Ruzindana, who was sentenced to 25 years' imprisonment; Alfred Musema, former director of a tea factory in Kibuye, who was sentenced to life imprisonment; and Omar Serushago, a former leader of the Interahamwe militia, who was sentenced to 15 years' imprisonment. The prisoners were transferred to Mali on 9 December 2001.

Court Management Section

94. Three support teams facilitate the simultaneous functioning of the three Trial Chambers, contributing to improvements in the speed and effectiveness of proceedings. Since August 2001, the section has published a *Daily Journal* which chronicles the judicial activities of the Tribunal, in order to increase public knowledge of proceedings before the Trial Chambers and to give the proceedings a higher profile and greater transparency. The *Journal* is published on the Tribunal's Internet site and also e-mailed throughout the world to individuals who request it.

95. The TRIM electronic record-keeping system has seen a major advance with the fully operational public access module coming online in early 2002. All public judicial records are now available for the general public to access online, download and save from the Tribunal's web site (www.ictr.org). This is a major achievement given the obstacles faced by the section in overcoming infrastructure and software problems. The database will be updated weekly to make access as close to real time as possible. It will also contain a large number of redacted transcripts of proceedings.

Witnesses and Victims Support Section — Defence

96. During the period under review, there was an increase in the work of the Section as a result of the concurrent functioning of three Trial Chambers. On average, defence teams called 32 witnesses per case in three trials in which the defence is presenting its case. These witnesses came from eight countries.

97. The vast majority of defence witnesses have no legal papers or status within the countries in which they reside, and the Section sought the assistance and cooperation of those countries with regard to the issuance of travel documents for those witnesses.

98. There is a great need for State cooperation over the relocation of witnesses. No State has as yet entered into a formal witness relocation agreement with the Tribunal. The Section acknowledges the assistance of regional offices of the Office of the United Nations High Commissioner for Refugees for the movement and the protection of witnesses in several African countries.

Witness and Victims Support Section — Prosecution

99. During the period under review, the Section brought 95 witnesses to Arusha, of which 89 were brought from Rwanda and 6 from other countries. A total of 33 flights with the Tribunal's aircraft were arranged from Kigali for the purpose of transporting witnesses. An additional seven commercial flights were utilized as a result of specific security concerns.

100. Seventy-five field missions were dispatched to Rwanda for purposes of initial contact, documentation, establishing protective measures, carrying out threat assessments, addressing witness security concerns and post-trial monitoring. Two hundred and seventy-three witnesses in Arusha and Kigali, including witnesses in previous cases remaining under the care and protection of the unit, were provided with medical treatment.

Legal aid programme

101. Systematic and far-reaching reform of the Tribunal's legal aid programme has been a priority of the Registrar since he assumed office. Internal procedures have been put in place to strengthen the vetting process of defence team members prior to their appointment as investigators/assistants. In this regard, the contracts of three defence investigators were cancelled or not renewed in cases where the Registry had reasonable grounds to believe that defence investigators may have been implicated in the events of 1994 or were under investigation by the Prosecutor. Another defence investigator was suspended pending further investigation into his background.

102. The issue of fee-splitting between defence counsel and accused was investigated and proactive

preventative steps have been taken to avert abuses of the legal aid system. These measures include a system of strict monitoring and limitation of the number and the value of the gifts received by detainees, and a proposed amendment of the Code of Conduct explicitly prohibiting fee-splitting. Furthermore, a panel has been installed to improve the legal aid programme with a view to ensuring the efficient use of resources and the protection of the integrity of the Tribunal's judicial process. In one case, the Registrar withdrew lead counsel assigned to an indigent accused after having found that the counsel had submitted inflated fee bills to the Tribunal. The counsel took the matter on review to the President, who confirmed the decision of the Registrar.

103. A new post of Investigator for legal aid issues has been appropriated to the Tribunal in its budget for the 2002-2003 biennium. This additional human resource will increase the efficiency of investigations related to the accused's indigence and fee-splitting matters.

United Nations Detention Facility

104. As of 20 April 2002, 52 accused persons were detained in the Detention Facility, 11 of whom had been transferred to the Tribunal during the period under review. Over the last 12 months there have been vast structural and other improvements to the facility.

Legal Library and Reference Section

105. A bilingual CD-ROM, *ICTR Basic Documents and Case Law 1995-2000*, produced by the Tribunal's Legal Library, was officially launched on United Nations Day in 2001. It is the first ever CD-ROM on the jurisprudence and operations of an international criminal court. The Tribunal has actively promoted and disseminated this important product.

General Legal Services Section

106. The Tribunal's internship programme coordinated by the section has continued to grow. Seventy students participated in the programme during the period under review. The interns came from Australia, Ethiopia, Finland, Kenya, Malawi, the Netherlands, New Zealand, Rwanda, Sierra Leone, South Africa, Sweden, Switzerland, the United Republic of Tanzania, Trinidad and Tobago, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United States, Zambia and Zimbabwe. Most of the interns were self-sponsored, although four were sponsored by the Open Society Institute grant run by the University of Notre Dame (United States), and two by the office of the United States Agency for International Development in the United Republic of Tanzania.

C. Division of Administration

107. The Division of Administration has been relentless in its efforts to improve the management policies of the Tribunal in accordance with established United Nations practices. To that end, an assessment report undertaken at the request of the Registrar by a management review team composed of senior officials of the Department of Management is currently being implemented. The management of the Tribunal additionally elicited the assistance of the United Nations Board of External Auditors, as well as professionals from the Office of Internal Oversight Services (OIOS), to examine management policies. It is anticipated that the deployment of three resident auditors of OIOS at the Tribunal, in accordance with General Assembly resolution 56/248 A of 24 December 2001 will greatly benefit the Tribunal in effectively managing its resources.

108. Additionally, the Tribunal's management conducted a comprehensive analysis of general temporary assistance resources and made significant cuts in the number of posts financed from that budget line. The exercise has resulted in substantial cost savings and the provision of needed services in the most efficient manner.

109. The arrival of outstanding audio-visual equipment facilitated the completion of the process of equipping the third courtroom. Much support and cooperation was received from the Field Administration and Logistics Division of the Department of Peacekeeping Operations, ICTY and the United Nations Logistics Base at Brindisi, Italy, in providing a videoconference facility which enabled Trial Chamber I to receive testimony of a protected witness from The Hague. Efforts are currently under way to establish a more permanent and reliable arrangement to facilitate future videoconference services with minimum delay.

110. In 2001, the General Services Section implemented an integrated central database utilizing the field asset control system (FACS) in order to improve its asset management. A major achievement was a successful migration of its old database to FACS,

to provide a United Nations standard format for the inventory database. The implementation of FACS has greatly improved asset management in the Tribunal, providing greater accountability and transparency.

Language and Conference Services Section

111. The Language and Conference Services Section introduced Kinyarwanda simultaneous interpretation services in one of the three Trial Chambers. In the light of this innovation and its positive reception, arrangements have been made to conduct in-house training for Kinyarwanda interpreters with a view to providing the service to the remaining two Trial Chambers. Prior to this system of translation, Kinyarwanda could only be interpreted consecutively into English and French, causing significant delays in judicial proceedings.

Conclusion

112. The President, the judges and the Registrar continue to identify areas for improvement, in particular areas of efficiency and judicial economy, and to adopt necessary measures either to remedy perceived problems or to increase the efficiency of the Tribunal. We acknowledge the support and assistance rendered to the Tribunal by His Excellency, Mr. Kofi Annan, Secretary-General of the United Nations, and express our appreciation to Member States for their continuing interest and support of the Tribunal in all its activities.

Notes

[1] See A/54/634 and S/2000/597, annex I.

[2] A/55/265-S/2001/764, annex.

[3] See S/PV.4429.

[4] Article 11 of the Tribunal's Statute, as amended by the Security Council in annex II to its resolution 1329 (2000) of 30 November 2000.

[5] The trial is proceeding before Trial Chamber I, comprising Judges Pillay (presiding), Møse and Gunawardana.

[6] The trial is proceeding before Trial Chamber I, comprising Judges Møse (presiding), Pillay and Vaz.

[7] The trial is proceeding before Trial Chamber I, comprising Judges Pillay (presiding), Møse and Vaz.

[8] The trial in this case is proceeding before Trial Chamber III, comprising Judges Ostrovsky (presiding), Williams and Dolenc.

[9] The trial in this case is proceeding before Trial Chamber III, comprising Judges Williams (presiding), Ostrovsky and Dolenc.

[10] The trial in this case is proceeding before Trial Chamber III, comprising Judges Williams (presiding), Dolenc and Vaz.

[11] See A/56/351-S/2001/863.